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By: **Senator Stone**  
Introduced and read first time: February 20, 2004  
Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Credit Regulation - Escrow Accounts - Homeowners and Flood Insurance**  
3                                   **Premiums**

4 FOR the purpose of requiring a certain lender or credit grantor to pay disbursements  
5 for certain homeowners insurance and flood insurance on or before the deadline  
6 to avoid a payee from not issuing, not renewing, or canceling an insurance policy  
7 for nonpayment, as long as a certain payment is not more than 30 days overdue;  
8 requiring a lender or credit grantor to advance funds to make disbursements in  
9 accordance with a certain provision; allowing a lender or credit grantor, on  
10 advancing certain funds, to seek repayment from the borrower for the  
11 deficiency; providing that a certain violation entitles a borrower to seek  
12 reasonable attorney's fees and certain damages; and generally relating to the  
13 payment of homeowners and flood insurance premiums from escrow accounts.

14 BY repealing and reenacting, with amendments,  
15 Article - Commercial Law  
16 Section 12-109.2 and 12-1026  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume and 2003 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21                                   **Article - Commercial Law**

22 12-109.2.

- 23 (a) (1) In this section the following terms have the meanings indicated.  
24 (2) "Escrow account" has the meaning stated in § 12-109 of this subtitle.  
25 (3) "Lender" includes a lender and assignee of a lender.  
26 (4) "Mortgage" includes a mortgage and a deed of trust.

1 (b) (1) Funds in any escrow account shall be kept separate from and may  
2 not be commingled with the funds of the lender.

3 (2) A lender may place escrow funds received in connection with more  
4 than one mortgage into a single escrow account.

5 (3) In the event of the bankruptcy of the lender, any escrow funds placed  
6 in any escrow account under this section may not be considered to be part of the  
7 bankrupt estate of the lender.

8 (c) A lender may not impose a collection fee or service charge on the  
9 maintenance of an escrow account on a first mortgage.

10 (D) (1) THIS SUBSECTION APPLIES TO HOMEOWNERS INSURANCE  
11 PREMIUMS AND FLOOD INSURANCE PREMIUMS THAT, AS REQUIRED UNDER THE  
12 TERMS OF A MORTGAGE LOAN MADE UNDER THIS SUBTITLE OR AS A VOLUNTARY  
13 AGREEMENT BETWEEN A BORROWER AND A LENDER, THE BORROWER PAYS TO AN  
14 ESCROW ACCOUNT FROM WHICH THE LENDER PAYS DISBURSEMENTS.

15 (2) AS LONG AS A BORROWER'S PAYMENT IS NOT MORE THAN 30 DAYS  
16 OVERDUE, A LENDER SHALL PAY DISBURSEMENTS ON OR BEFORE THE DEADLINE TO  
17 AVOID A PAYEE FROM NOT ISSUING, NOT RENEWING, OR CANCELLING AN  
18 INSURANCE POLICY FOR NONPAYMENT.

19 (3) (I) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, A  
20 LENDER SHALL ADVANCE FUNDS TO MAKE DISBURSEMENTS.

21 (II) ON ADVANCING FUNDS TO PAY A DISBURSEMENT UNDER THIS  
22 SUBSECTION, THE LENDER MAY SEEK REPAYMENT FROM THE BORROWER FOR THE  
23 DEFICIENCY.

24 (4) IN ADDITION TO ANY OTHER APPLICABLE PENALTY AUTHORIZED  
25 UNDER LAW, A VIOLATION OF THIS SUBSECTION SHALL ENTITLE THE BORROWER TO  
26 SEEK:

27 (I) REASONABLE ATTORNEY'S FEES; AND

28 (II) DAMAGES DIRECTLY RESULTING FROM THE VIOLATION.

29 12-1026.

30 (a) (1) In this section the following words have the meanings indicated.

31 (2) "Lending institution" means a bank, savings bank, or savings and  
32 loan association doing business in Maryland.

33 (3) "Escrow account" means an expense or escrow account which tends to  
34 protect the security of a loan by the accumulation of funds for the payment of taxes,  
35 insurance premiums, or other expenses.

1 (b) (1) A lending institution that makes a loan to a consumer borrower  
2 secured by a first mortgage or first deed of trust on residential real property and  
3 creates or is the assignee of an escrow account in connection with that loan shall pay  
4 interest to the consumer borrower on the funds in the escrow account at the greater  
5 of:

6 (i) A rate of 3 percent per annum simple interest; or

7 (ii) The rate of interest regularly paid by the lending institution on  
8 regular passbook savings accounts.

9 (2) Interest on these funds shall be:

10 (i) Computed on the average monthly balance in the escrow  
11 account; and

12 (ii) Paid annually to the borrower by crediting the escrow account  
13 with the amount of interest due.

14 (3) The lending institution shall annually provide the consumer  
15 borrower with a statement of the escrow balance.

16 (4) The provisions of this subsection do not apply to a lending institution  
17 that provides for the payment of taxes, insurance, or other expenses under the direct  
18 reduction method by which these expenses, when paid by the lending institution, are  
19 added to the outstanding principal balance of the loan.

20 (5) (i) This subsection does not apply if the loan:

21 1. Is purchased by an out-of-state lender through the  
22 Federal National Mortgage Association, the Government National Mortgage  
23 Association, or the Federal Home Loan Mortgage Corporation; and

24 2. The out-of-state lender elects to service the loan as a  
25 condition of purchase.

26 (ii) Notwithstanding subparagraph (i) of this paragraph, this  
27 subsection shall apply if the out-of-state lender:

28 1. Sells the loan to a Maryland lender; or

29 2. Places the loan with a Maryland lender for servicing.

30 (c) (1) Except upon foreclosure, release, or as provided in paragraph (2) of  
31 this subsection, funds in any escrow account maintained by a credit grantor on behalf  
32 of a consumer borrower for use in paying taxes, insurance premiums, and ground  
33 rents may not be used:

34 (i) To reduce the principal; or

35 (ii) To pay interest or other loan charges.

1           (2)     If there is periodically a balance in the escrow account maintained by  
2 a credit grantor on behalf of a consumer borrower which exceeds the amount stated in  
3 the agreement, note, or other evidence of the loan, the consumer borrower shall be  
4 given at least annually the option of:

5                   (i)     Receiving a refund of the excess amount;

6                   (ii)    Applying the excess amount to the payment of principal and  
7 interest; or

8                   (iii)   Leaving the excess amount in the escrow account.

9           (3)     A refund of any excess amount shall be made:

10                   (i)    Within 60 days after the receipt by the credit grantor of the  
11 consumer borrower's request for a refund; or

12                   (ii)    If the consumer borrower has not notified the credit grantor of  
13 the option chosen by the consumer borrower, within 60 days after the date the credit  
14 grantor mailed notice of an excess amount.

15   (d)   (1)     Funds in any escrow account shall be kept separate from and may  
16 not be commingled with the funds of the credit grantor.

17           (2)     A credit grantor may place escrow funds received in connection with  
18 more than one loan into a single escrow account.

19           (3)     In the event of the bankruptcy of the credit grantor, any escrow funds  
20 placed in any escrow account may not be considered to be part of the bankrupt estate  
21 of the credit grantor.

22   (e)    A credit grantor may not impose a collection fee or service charge on the  
23 maintenance of an escrow account on a first mortgage or first deed of trust.

24   (F)   (1)     THIS SUBSECTION APPLIES TO HOMEOWNERS INSURANCE  
25 PREMIUMS AND FLOOD INSURANCE PREMIUMS THAT, AS REQUIRED UNDER THE  
26 TERMS OF A MORTGAGE LOAN MADE UNDER THIS SUBTITLE OR AS A VOLUNTARY  
27 AGREEMENT BETWEEN A BORROWER AND A CREDIT GRANTOR, THE BORROWER PAYS  
28 TO AN ESCROW ACCOUNT FROM WHICH THE CREDIT GRANTOR PAYS  
29 DISBURSEMENTS.

30           (2)     AS LONG AS A BORROWER'S PAYMENT IS NOT MORE THAN 30 DAYS  
31 OVERDUE, A CREDIT GRANTOR SHALL PAY DISBURSEMENTS ON OR BEFORE THE  
32 DEADLINE TO AVOID A PAYEE FROM NOT ISSUING, NOT RENEWING, OR CANCELLING  
33 AN INSURANCE POLICY FOR NONPAYMENT.

34           (3)    (I)     IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, A  
35 CREDIT GRANTOR SHALL ADVANCE FUNDS TO MAKE DISBURSEMENTS.

1                   (II)     ON ADVANCING FUNDS TO PAY A DISBURSEMENT UNDER THIS  
2 SUBSECTION, THE CREDIT GRANTOR MAY SEEK REPAYMENT FROM THE BORROWER  
3 FOR THE DEFICIENCY.

4                   (4)     IN ADDITION TO ANY OTHER APPLICABLE PENALTY AUTHORIZED  
5 UNDER LAW, A VIOLATION OF THIS SUBSECTION SHALL ENTITLE THE BORROWER TO  
6 SEEK:

7                   (I)     REASONABLE ATTORNEY'S FEES; AND

8                   (II)    DAMAGES DIRECTLY RESULTING FROM THE VIOLATION.

9     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 June 1, 2004.